

have been added. Many Democratic Members, including myself, would have liked to include positive proactive legislation for consumers. For example, I would have like to increase the limit for the applicability for non-mortgage Truth In Lending Act coverage from \$25,000 to \$50,000 so that consumers who buy a vehicle that costs more than \$25,000 would be protected by TILA. These kinds of provisions, however, were held off in the spirit of pragmatism, trying to move a bill quickly and not to bog it down in controversy.

Let me finally say, regulatory burden relief can generally be a good premise, but not if it breaches consumer protection OR safety and soundness boundaries. It cannot be an excuse for the lowest common denominator with regards to consumers, communities and safety and soundness. I supported working on this legislation so that we can maintain a non-partisan, non-controversial stance on some needed changes. There are unnecessarily changes, however, that were suggested.

For example, there are provisions in the regulatory relief bill that has been pending in the other body and I do find very egregious. They are absent in this bill and I appreciate the willingness to work together on this bill without those sort of provisions. That is what has made this bill a suspension bill today. Because of our less controversial approach, we may well have facilitated the positive consideration of this legislation in the very limited window we have left.

Mrs. ROUKEMA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New Jersey (Mrs. ROUKEMA) that the House suspend the rules and pass the bill, H.R. 4364, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mrs. ROUKEMA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4363, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

#### CONSUMER REPORTING EMPLOYMENT CLARIFICATION ACT OF 1998

Mr. LEACH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2561) to amend the Fair Credit Reporting Act with respect to furnishing and using consumer reports for employment purposes.

The Clerk read as follows:

S. 2561

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Consumer Reporting Employment Clarification Act of 1998".

#### SEC. 2. USE OF CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.

(a) DISCLOSURE TO CONSUMER.—Section 604(b)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(2)) is amended to read as follows:

"(2) DISCLOSURE TO CONSUMER.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless—

"(i) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and

"(ii) the consumer has authorized in writing (which authorization may be made on the document referred to in clause (i)) the procurement of the report by that person.

"(B) APPLICATION BY MAIL, TELEPHONE, COMPUTER, OR OTHER SIMILAR MEANS.—If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, at any time before a consumer report is procured or caused to be procured in connection with that application—

"(i) the person who procures the consumer report on the consumer for employment purposes shall provide to the consumer, by oral, written, or electronic means, notice that a consumer report may be obtained for employment purposes, and a summary of the consumer's rights under section 615(a)(3); and

"(ii) the consumer shall have consented, orally, in writing, or electronically to the procurement of the report by that person.

"(C) SCOPE.—Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if—

"(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

"(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means."

(b) CONDITIONS ON USE FOR ADVERSE ACTIONS.—Section 604(b)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(3)) is amended to read as follows:

"(3) CONDITIONS ON USE FOR ADVERSE ACTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates—

"(i) a copy of the report; and

"(ii) a description in writing of the rights of the consumer under this title, as prescribed by the Federal Trade Commission under section 609(c)(3).

"(B) APPLICATION BY MAIL, TELEPHONE, COMPUTER, OR OTHER SIMILAR MEANS.—

"(i) If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, and if a person who has procured a consumer report on the consumer for employment purposes takes adverse action on the employment application based in whole or in part on the report, then the person must provide to the consumer to whom the report relates,

in lieu of the notices required under subparagraph (A) of this section and under section 615(a), within 3 business days of taking such action, an oral, written or electronic notification—

"(I) that adverse action has been taken based in whole or in part on a consumer report received from a consumer reporting agency;

"(II) of the name, address and telephone number of the consumer reporting agency that furnished the consumer report (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis);

"(III) that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide to the consumer the specific reasons why the adverse action was taken; and

"(IV) that the consumer may, upon providing proper identification, request a free copy of a report and may dispute with the consumer reporting agency the accuracy or completeness of any information in a report.

"(ii) If, under clause (B)(i)(IV), the consumer requests a copy of a consumer report from the person who procured the report, then, within 3 business days of receiving the consumer's request, together with proper identification, the person must send or provide to the consumer a copy of a report and a copy of the consumer's rights as prescribed by the Federal Trade Commission under section 609(c)(3).

"(C) SCOPE.—Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if—

"(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

"(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means."

#### SEC. 3. PROVISION OF SUMMARY OF RIGHTS.

Section 604(b)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(1)(B)) is amended by inserting ", or has previously provided," before "a summary".

#### SEC. 4. NATIONAL SECURITY INVESTIGATION CONFORMING AMENDMENTS.

(a) GOVERNMENT AS END USER.—Section 609(a)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(3)) is amended by adding at the end the following:

"(C) Subparagraph (A) does not apply if—

"(i) the end user is an agency or department of the United States Government that procures the report from the person for purposes of determining the eligibility of the consumer to whom the report relates to receive access or continued access to classified information (as defined in section 604(b)(4)(E)(i)); and

"(ii) the head of the agency or department makes a written finding as prescribed under section 604(b)(4)(A)."

(b) NATIONAL SECURITY INVESTIGATIONS.—Section 613 of the Fair Credit Reporting Act (15 U.S.C. 1681k) is amended—

(1) by inserting "(a) IN GENERAL.—" before "A consumer"; and

(2) by adding at the end the following:

"(b) EXEMPTION FOR NATIONAL SECURITY INVESTIGATIONS.—Subsection (a) does not apply in the case of an agency or department of the

United States Government that seeks to obtain and use a consumer report for employment purposes, if the head of the agency or department makes a written finding as prescribed under section 604(b)(4)(A).''

#### SEC. 5. CIVIL SUITS AND JUDGMENTS.

Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)) is amended—

(1) in paragraph (2), by striking "Suits and Judgments which" and inserting "Civil suits, civil judgments, and records of arrest that";

(2) by striking paragraph (5);

(3) in paragraph (6), by inserting ", other than records of convictions of crimes" after "of information"; and

(4) by redesignating paragraph (6) as paragraph (5).

#### SEC. 6. TECHNICAL AMENDMENTS.

The Fair Credit Reporting Act (15 U.S.C. 1601 et seq.) is amended—

(1) in section 603(d)(2)(A)(iii), by striking "any communication" and inserting "communication";

(2) in section 603(o)(1), by striking "(d)(2)(E)" and inserting "(d)(2)(D)";

(3) in section 603(o)(4), by striking "or" at the end and inserting "and";

(4) in section 604(g), by striking "or a direct marketing transaction";

(5) in section 611(a)(7), by striking "(6)(B)(iv)" and inserting "(6)(B)(iii)"; and

(6) in section 621(b), by striking "or (e)".

#### SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall be deemed to have the same effective date as the amendments made by section 2403 of the Consumer Credit Reporting Reform Act of 1996 (Public Law 104-208; 110 Stat. 3009-1257).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from New York (Mr. LAFALCE) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. Leach).

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LEACH asked and was given permission to revise and extend his remarks.)

Mr. LEACH. Mr. Speaker, S. 2561, the Consumer Reporting Employment Clarification Act of 1998 amends the Fair Crediting Reporting Act FCRA to revise certain changes that were made to the act last Congress. Some of these changes had inadvertent consequences on the trucking industry's hiring practices.

Specifically, the bill amends the FCRA to remove burdensome restrictions so that trucking companies will be able to conduct background investigations of driver applicants in a timely and efficient manner to help ensure highway safety.

S. 2561 has bipartisan support and the agreement of the Federal Trade Commission and consumer advocacy groups. The bill is also strongly supported by the American Trucking Association and the Truckload Carriers Association.

The legislation also amends the FCRA so employers have access to critical information in order to make informed hiring decisions. Current law exempts convictions of crime from consumer reports after 7 years for individuals applying for jobs with an annual

salary of less than \$75,000. S. 2561 would remove this exemption. Such information is particularly crucial in the hiring process for employers in the area of child or elderly care, school bus driving, and household services.

This bill provides for small changes to the FCRA that will have a significant impact on the efficiency of many employers' hiring practices, resulting in a safer environment for all.

I would like to commend Senator NICKLES, Senator BRYAN, and Senator MACK for their work on this legislation and the gentleman from Oklahoma (Mr. LUCAS) and the gentleman from Oklahoma (Mr. WATTS) for their leadership in the House and the gentleman from New York (Mr. LAFALCE) for his cooperation in ensuring that this important legislation is able to be brought before us at the last moments of this Congress.

By background, on September 30, 1996, Congress enacted amendments to the Fair Credit Reporting Act (FCRA) that unintentionally hindered the ability of trucking companies to hire safe, professional truck drivers. The new regulations, which went into effect last Fall, require trucking companies to obtain written consent from truck driver applicants before the company may obtain driving records and accidents history information required by the Federal Highway Administration.

the hiring process in the trucking industry, which employs over 3.5 million drivers, depends on an immediate ability to verify a driver's safety and employment history before a company will put a driver behind the wheel. Because of the high volume of applicants and the need to verify instantly safety and employment information, many trucking companies utilize an "800" number system. Under this system, trucking carriers will accept applications for employment over the telephone, and immediately orders a background report to determine if the applicant meets the carriers' hiring requirements. Due to the industry's high standards, the industry hires only one of every ten applicants.

The new FCRA regulations have forced the trucking industry to add multiple, unnecessary steps to its hiring procedures, especially since these background checks are already required under federal law. Moreover, because of the burdensome paperwork requirements under these regulations, and because the industry is currently facing a critical shortage of drivers, many carriers will have no choice but to put drivers behind the wheel before their safety records can be verified. This obviously raises serious highway safety concerns. For all these reasons, the trucking industry strongly supports an amendment to FCRA that would permit trucking companies to accept an applicants consent over the telephone.

Section 604 of the FCRA establishes, among other items, the conditions under which a consumer reporting agency may furnish a consumer report for employment purposes. Current law requires prospective employers to certify to the consumer reporting agency that certain notices, including a summary of rights in the event of adverse action, have been given to the consumer and that information from the report will be used for lawful purposes.

In addition, the consumer reporting agency may only furnish a report to a prospective em-

ployer if the agency provides with the report the summary of consumer rights. The amendment establishes that the intent of the statute can be met without the consumer reporting agency providing the summary every time a report is obtained. Instead, the requirement is satisfied if the consumer reporting agency has previously provided a summary of rights. The amendment codifies interpretive letter of the Federal Trade Commission in this area.

Section 4 amendments are conforming amendments for provisions added to Section 604(b)(4) in the Intelligence Authorization Act of 1998. These provisions created an exception for providing certain disclosures to consumers if a written determination was obtained from the relevant agency that the disclosure would threaten national security, endanger an individual's safety or hamper an official investigation. The proposed amendments provide for full compliance with the Intelligence Authorization provisions and protect consumer reporting agencies from unwarranted liability.

The Intelligence Authorization Act amendments failed to make conforming exceptions for requirements imposed upon consumer reporting agencies. First, under Section 609, a consumer reporting agency must, upon request, disclose to the consumer the end-user of the report. The amendment would provide an exception to that requirement if the relevant agency makes the appropriate written determination.

Second, under Section 613, consumer reporting agencies may be required to provide consumers with the name and address of person seeking consumer reports consisting of public record information. The amendment establishes an exception for disclosing this information in the context of the national security area.

Under current law, if an individual is seeking a job with an annual salary below \$75,000, no records of criminal activity, including convictions, may be reported if they antedate the report by more than seven years. This information may be of critical value to prospective employers, especially those in the areas of child or elderly care, school bus driving and household services. Under the bill, convictions of crimes from the seven-year obsolescence period would be exempted.

All in all this is a common sense bill designed to protect the public. I encourage support of all members.

Mr. Speaker, I reserve the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LAFALCE asked and was given permission to revise and extend his remarks.)

Mr. LAFALCE. Mr. Speaker, I rise in support of S. 2561, associate myself fully with the remarks of the distinguished chairman of the Committee on Banking and Financial Services, the gentleman from Iowa (Mr. LEACH).

Mr. Speaker, I rise in support of S. 2561, a bill to provide limited clarifications and technical corrections to the Fair Credit Reporting Act. I wish to thank the Chairman of the Banking Committee for bringing this legislation to the floor under suspension.

While I believe we need to be extremely cautious in accepting any proposal to revise the Fair Credit Reporting Act, especially those offered in the rush before adjournment, let me

say that I have closely reviewed this bill and have no objections. The exceptions that the bill creates from current FCRA requirements are justifiable and are very narrowly targeted. In addition, the bill provides a number of technical improvements to FCRA that were drafted with the assistance and support of the Federal Trade Commission.

The primary issue addressed by the bill relates to problems encountered by a limited number of firms that provide employment screening for national trucking companies. Under FCRA any report on an individual produced by a hired third party falls under the category of a "consumer report". It requires, where such reports are prepared for employment purposes, that certain disclosures be provided in writing to the individual who is the subject of the report; that the individual provide written authorization for release of the report and that the employer provide a written copy of the report to the applicant where an adverse decision is made based on information in the report.

Since the companies providing employment screening for trucking firms seek applications in all parts of the country and communicate primarily by telephone, fax or mail, current FCRA requirements that disclosures and authorizations be made in person and in writing are inappropriate and burdensome. The legislation would add several narrowly crafted exceptions to FCRA that would permit—where employment applications are taken by phone, mail or electronically—greater flexibility in providing required disclosures and authorizations either by "oral, written or electronic means", and in permitting delivery of a credit report to an applicant within three days after an adverse employment decision.

I believe these exceptions are reasonable and have been crafted to apply very narrowly only to truck driving positions that are defined and regulated under Federal law. The bill also

makes a number of additional technical changes, most of which are intended to correct drafting errors made in the 1996 FCRA Amendments.

Mr. Speaker, the clarifications made by S. 2561 are supported by the Federal Trade Commission, they have been signed-off on by U.S. PIRG, and they have raised no objections among the major national consumer organizations.

I urge that the House suspend the rules and adopt S. 2561.

Mr. LUCAS of Oklahoma. Mr. Speaker, I rise today in strong support of the "Consumer Reporting Employment Clarification Act of 1998."

I would like to thank Banking Committee Chairman LEACH and Ranking Member LAFALCE, House Leadership, Senators CONNIE MACK and RICHARD BRYAN, and Senate Assistant Majority Leader DON NICKLES—Oklahoma's Senior Senator—for their hard work on and their support of this legislation that will streamline the trucking industry's hiring of competent, professional, and safe truck drivers.

Unfortunately, current Fair Credit Reporting Act (FCRA) regulations have forced the trucking industry to add multiple, unnecessary steps to its hiring procedures. Worse, because of burdensome paperwork requirements under these regulations, and because the industry is currently facing a critical shortage of drivers, many carriers have been forced to put drivers behind the wheel before their safety records can be verified. This is not what Congress intended when it enacted changes to the FCRA.

This legislation will expedite the process by which employment background information is exchanged between truck company employers and truck drivers. Instead of having to obtain written consent from a potential employee to procure a consumer report, truck company employers will not be able to obtain a potential

employee's consent by mail, over the telephone, or by means of computer or fax machine.

I encourage my colleagues to support this bill. It has received the endorsement of the Federal Trade Commission—which enforces the FCRA—major credit institutions, consumer advocacy groups, and is strongly supported by the American Truckers Association and by trucking companies and truckers in Oklahoma.

Let's put highway safety before bureaucratic red tape and correct this safety problem immediately, and vote for this legislation.

Again, I would like to thank those involved in the process of bringing this legislation to the floor.

Mr. LAFALCE. Mr. Speaker, I yield back the balance of my time.

Mr. LEACH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and pass S. 2561.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2561, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.